



City Council Chambers
3300 Capitol Avenue
Fremont, California

City Council

Bob Wasserman, Mayor
Suzanne Lee Chan, Vice Mayor
Anu Natarajan
Bill Harrison
Dominic Dutra

City Staff

Fred Diaz, City Manager
Harvey E. Levine, City Attorney
Mark Danaj, Assistant City Manager

Dawn G. Abrahamson, City Clerk
Robert Beyer, Interim Community Dev. Director
Harriet Commons, Finance Director
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Suzanne Shenfil, Human Services Director
Craig Steckler, Chief of Police
Brian Stott, Human Resources Director
Lori Taylor, Economic Development Director
Elisa Tierney, Redevelopment Director

City Council Agenda and Report **[Redevelopment Agency of Fremont]**

General Order of Business

1. Preliminary
 - Call to Order
 - Salute to the Flag
 - Roll Call
2. Consent Calendar
3. Ceremonial Items
4. Public Communications
5. Scheduled Items
 - Public Hearings
 - Appeals
 - Reports from Commissions, Boards and Committees
6. Report from City Attorney
7. Other Business
8. Council Communications
9. Adjournment

Order of Discussion

Generally, the order of discussion after introduction of an item by the Mayor will include comments and information by staff followed by City Council questions and inquiries. The applicant, or their authorized representative, or interested citizens, may then speak on the item; each speaker may only speak once to each item. At the close of public discussion, the item will be considered by the City Council and action taken. Items on the agenda may be moved from the order listed.

Consent Calendar

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address the City Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.



Addressing the Council

Any person may speak once on any item under discussion by the City Council after receiving recognition by the Mayor. Speaker cards will be available prior to and during the meeting. To address City Council, a card must be submitted to the City Clerk indicating name, address and the number of the item upon which a person wishes to speak. When addressing the City Council, please walk to the lectern located in front of the City Council. State your name. In order to ensure all persons have the opportunity to speak, a time limit will be set by the Mayor for each speaker (see instructions on speaker card). In the interest of time, each speaker may only speak once on each individual agenda item; please limit your comments to new material; do not repeat what a prior speaker has said.

Oral Communications

Any person desiring to speak on a matter which is not scheduled on this agenda may do so under the Oral Communications section of Public Communications. Please submit your speaker card to the City Clerk prior to the commencement of Oral Communications. **Only those who have submitted cards prior to the beginning of Oral Communications will be permitted to speak.** Please be aware the California Government Code prohibits the City Council from taking any immediate action on an item which does not appear on the agenda, unless the item meets stringent statutory requirements. The Mayor will limit the length of your presentation (see instructions on speaker card) and each speaker may only speak once on each agenda item.

To leave a voice message for all Councilmembers and the Mayor simultaneously, dial 284-4080.

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Information

Copies of the Agenda and Report are available in the lobbies of the Fremont City Hall, 3300 Capitol Avenue and the Development Services Center, 39550 Liberty Street, on Friday preceding a regularly scheduled City Council meeting. Supplemental documents relating to specific agenda items are available at the Office of the City Clerk.

The regular meetings of the Fremont City Council are broadcast on Cable Television Channel 27 and can be seen via webcast on our website (www.Fremont.gov).

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the City Clerk at (510) 284-4060. Council meetings are *open captioned* for the deaf in the Council Chambers and *closed captioned* for home viewing.

Availability of Public Records

All disclosable public records relating to an open session item on this agenda that are distributed by the City to all or a majority of the City Council less than 72 hours prior to the meeting will be available for public inspection in specifically labeled binders located in the lobby of Fremont City Hall, 3300 Capitol Avenue during normal business hours, at the time the records are distributed to the City Council.

Information about the City or items scheduled on the Agenda and Report may be referred to:

Address: City Clerk
City of Fremont
3300 Capitol Avenue, Bldg. A
Fremont, California 94538
Telephone: (510) 284-4060

Your interest in the conduct of your City's business is appreciated.

AGENDA
FREMONT CITY COUNCIL REGULAR MEETING
MARCH 22, 2011
COUNCIL CHAMBERS, 3300 CAPITOL AVE., BUILDING A
7:00 P.M.

1. PRELIMINARY

- 1.1 Call to Order
- 1.2 Salute the Flag
- 1.3 Roll Call
- 1.4 Announcements by Mayor / City Manager

2. CONSENT CALENDAR

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which event the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.

- 2.1 *Motion to Waive Further Reading of Proposed Ordinances
(This permits reading the title only in lieu of reciting the entire text.)*
- 2.2 *Approval of Minutes – for the Regular and Special Meetings of February 15, 2011*
- 2.3 **KATO ROAD GRADE SEPARATION PROJECT AGREEMENTS**
Approve and Authorize the City Manager to Execute a Construction and Maintenance Agreement with the Union Pacific Railroad and a Fourth Amendment to the Cooperative Agreement with the Santa Clara Valley Transportation Authority for the Kato Road Grade Separation Project

Contact Person:

*Name: Jim Pierson
Title: Director
Dept.: Public Works
Phone: 494-4722
E-Mail: jpierson@fremont.gov*

RECOMMENDATION:

- 1. *Approve and Authorize the City Manager or his designee to execute a Fourth*

Amendment to the Cooperative Agreement with the Santa Clara Valley Transportation Authority regarding the implementation of the Kato Road Grade Separation Project to commit VTA to assume all cost responsibilities of the City called for in the Project Construction and Maintenance Agreement with the Union Pacific Railroad and VTA.

2. *Approve and following execution of the Fourth Amendment to the Cooperative Agreement with VTA, further authorize the City Manager or his designee to execute a Construction and Maintenance Agreement with the Union Pacific Railroad and VTA to set forth the rights and responsibilities for construction of the Kato Road Grade Separation Project and maintenance of the completed facilities.*

2.4 OSGOOD ROAD REHABILITATION PROJECT

Appropriate Federal American Recovery and Reinvestment Act of 2009 (ARRA) fund amount of \$252,422 to the Osgood Road Rehabilitation Project between Washington Boulevard and Auto Mall Parkway, City Project No. 8173 (PWC)

Contact Person:

<i>Name:</i>	<i>Jeanne Suyeishi</i>	<i>Norm Hughes</i>
<i>Title:</i>	<i>Associate Civil Engineer</i>	<i>City Engineer</i>
<i>Dept.:</i>	<i>Public Works</i>	<i>Public Works</i>
<i>Phone:</i>	<i>510-494-4728</i>	<i>510-494-4748</i>
<i>E-Mail:</i>	<i>jsuyeishi@fremont.gov</i>	<i>nhughes@fremont.gov</i>

RECOMMENDATION: Appropriate American Recovery and Reinvestment Act of 2009 funding obligated to Osgood Road by Caltrans on August 13, 2010, in the amount of \$252,422 to the Osgood Road Rehabilitation Project, City Project No. PWC 8173 fund 194.

2.5 HOUSING ELEMENT ANNUAL REVIEW (PLN2011-00107)

Public Hearing (Published Notice) to Consider an Annual Report on the Status of the General Plan and Housing Element Implementation

Contact Person:

<i>Name:</i>	<i>Kelly Diekmann</i>	<i>Ed Chew</i>
<i>Title:</i>	<i>Senior Planner</i>	<i>Staff Planner</i>
<i>Dept.:</i>	<i>Community Development</i>	<i>Community Development</i>
<i>Phone:</i>	<i>510-494-4540</i>	<i>510-494-4462</i>
<i>E-Mail:</i>	<i>kdiekmann@fremont.gov</i>	<i>echew@fremont.gov</i>

RECOMMENDATION:

1. *Hold public hearing.*
2. *Recommend the City Council find the Annual Report is exempt from the California Environmental Quality Act (CEQA) under Guideline 15378(b)(5) definition of a "project".*
3. *Recommend the City Council find that the Annual Report of the General Plan and Housing Element accurately depict the current status of the City of Fremont*

with respect to the General Plan and Housing Element and direct staff to submit required materials to the appropriate agencies.

2.6 REPLACEMENT OF LETTER OF CREDIT ON 1998 VARIABLE RATE COPS
Replacement of Letter of Credit on the City of Fremont 1998 Variable Rate Demand Certificates of Participation (1998 Family Resource Center Financing Project) (COPs)

Contact Person:

Name: Harriet Commons
Title: Finance Director/Treasurer
Dept.: Finance
Phone: 510-284-4010
E-Mail: hcommons@fremont.gov

RECOMMENDATION:

1. *Approve substitution of the Kredietbank N.V., acting through its New York Branch (“KBC”), letter of credit with the U. S. Bank letter of credit for the 1998 Variable Rate Demand Certificates of Participation.*
2. *Adopt a resolution authorizing the preparation and execution by the City officers and staff identified in the resolution of all agreements, documents, and certificates required to remarket the 1998 Variable Rate Demand Certificates of Participation, including the following documents (which are on file with the Office of the City Clerk), in addition to the enclosures, in connection with the 1998 Variable Rate Demand Certificates of Participation:*
 - a. *Reimbursement Agreement with U. S. Bank, National Association*
 - b. *Mandatory Tender Notice*
 - c. *Remarketing Supplement to the Official Statement for the 2008 Variable Rate Demand Certificates of Participation*

3. CEREMONIAL ITEMS – None.

4. PUBLIC COMMUNICATIONS

4.1 Oral and Written Communications

REDEVELOPMENT AGENCY – None.

PUBLIC FINANCING AUTHORITY – The Public Financing Authority Board will convene at this time and take action on the agenda items listed on the Public Financing Authority Agenda. [See separate agenda](#) (lilac paper).

CONSIDERATION OF ITEMS REMOVED FROM CONSENT CALENDAR

5. SCHEDULED ITEMS – None.

6. REPORT FROM CITY ATTORNEY

6.1 Report Out from Closed Session of Any Final Action

7. OTHER BUSINESS

7.1 UNIVERSAL DESIGN ORDINANCE

Introduce an Ordinance Adding Chapter 14 to Title VII of the Fremont Municipal Code Regarding Universal Design Features in New Housing

Contact Person:

Name:	Amy Rakley	Jeff Schwob
Title:	Associate Planner	Planning Director
Dept.:	Community Development	Community Development
Phone:	510-494-4450	510-494-4527
E-Mail:	arakley@fremont.gov	jschwob@fremont.gov

RECOMMENDATION:

1. Hold public hearing.
2. Waive full reading and introduce an ordinance adding Chapter 14 (Universal Design) to Title VII (Building Regulations) regarding Universal Design standards.
3. Direct staff to prepare and the City Clerk to publish a summary of the proposed ordinance.
4. Direct the City Clerk to file a copy of the ordinance with the California Department of Housing and Community Development after its adoption.

8. COUNCIL COMMUNICATIONS

8.1 Council Referrals – None.

8.2 Oral Reports on Meetings and Events

9. ADJOURNMENT



REPORT SECTION
FREMONT CITY COUNCIL
REGULAR MEETING

MARCH 22, 2011

***2.3 KATO ROAD GRADE SEPARATION PROJECT AGREEMENTS**

Approve and Authorize the City Manager to Execute a Construction and Maintenance Agreement with the Union Pacific Railroad and a Fourth Amendment to the Cooperative Agreement with the Santa Clara Valley Transportation Authority for the Kato Road Grade Separation Project

Contact Person:

Name: Jim Pierson
Title: Director
Dept.: Public Works
Phone: 494-4722
E-Mail: jpierson@fremont.gov

Executive Summary: The City previously entered into an agreement with the Santa Clara Valley Transportation Authority (VTA) to implement the Kato Road Grade Separation Project (KGS) to facilitate the extension of BART to San Jose. As part of that agreement, the City agreed to enter into a Construction and Maintenance (C&M) Agreement with the Union Pacific Railroad (UPRR) to set forth the rights and responsibilities for construction of the KGS and maintenance of the completed facilities. The City has received the “final” Construction and Maintenance Agreement from UPRR that it prepared for execution by both the City and VTA. The C&M Agreement includes several provisions that could require future costs or responsibilities for the City that would be inconsistent with the City’s prior agreements with VTA. VTA’s schedule does not provide time for them to modify the C&M Agreement with UPRR and prefers to instead accommodate the City’s concerns by amending the current agreement between the City and VTA for the KGS. Therefore, a portion of this item is to authorize the City Manager or designee to execute a fourth Amendment to the City/VTA KGS Implementation Agreement to document VTA’s commitment to cover all costs of implementing the UPRR C&M Agreement, including the costs assigned to the City by the C&M Agreement. With this amendment in place, staff is comfortable with the UPRR C&M Agreement as drafted and is also recommending the Council authorize the City Manager or designee to execute the C&M Agreement with UPRR and VTA.

BACKGROUND: In 2008 the City Council approved a cooperative agreement with VTA for the implementation of the Kato Road Grade Separation Project to facilitate the BART extension to San Jose. The agreement calls for VTA to implement the project and be responsible for all implementation costs with the exception of a \$10 million state grant that the City would contribute to the project. The cooperative agreement also provides for the City to assist VTA in acquiring the necessary property for the project, with VTA fully reimbursing the City for all costs associated with the property acquisition. The cooperative agreement was subsequently amended three times to update the property acquisition and overall project costs and schedule and make other minor changes, but continued to have VTA responsible for all implementation costs of the KGS project other than the state grant the City would contribute.

DISCUSSION/ANALYSIS: The KGS project requires changes to the UPRR tracks where they cross Kato Road and therefore requires a C&M Agreement with UPRR. The City’s cooperative agreement with VTA calls for the City to enter in to such an agreement. UPRR prepared a C&M Agreement for the City and VTA to execute. The Agreement calls for the City to be responsible for certain potential

costs associated with the development and maintenance of the Kato Road Grade Separation that is inconsistent with the agreement the City has with VTA that calls for VTA to assume all costs of the implementation of the project. Since some of the costs in the C&M Agreement assigned, or partially assigned, to the City are not covered by the City's existing agreements with VTA, staff was not willing to recommend the Council approve the C&M Agreement as written. Therefore, either the C&M Agreement needed to be rewritten, or the agreement with VTA could be further amended to have VTA commit to cover all possible City costs called for in the C&M Agreement. VTA informed staff their schedule for constructing KGS did not provide time for them to go back to UPRR to modify the C&M Agreement. However, VTA is willing to enter into a fourth amendment to the project cooperative agreement with the City to explicitly have VTA accept the responsibilities in the C&M that UPRR had assigned to the City.

The C&M Agreement with the Union Pacific Railroad (UPRR) and VTA is a standard UPRR agreement that sets forth the rights and responsibilities for construction of the KGS and maintenance of the completed facilities. As mentioned, several of the provisions included in the Agreement, as written by UPRR, placed responsibilities on the City that should be placed solely on VTA. This included provisions such as: 1) upon completion of the project UPRR would remove the rails and ties from the railroad detour track, but charge the City for those costs and provide any salvage value credits to VTA; 2) the City and/or VTA would pay for the costs incurred by the railroad for extraordinary maintenance for a period of five years; and 3) the City and/or VTA would be liable for costs incurred by UPRR if the agreement is terminated. By entering into a fourth amendment to the cooperative agreement with VTA, each of these costs assigned or partially assigned to the City would become VTA's sole responsibility.

There is one provision of the C&M Agreement that is assigned to the City that can not be fully addressed by the fourth amendment to the cooperative agreement with VTA. This provision states that the City shall assume all of VTA's responsibilities for the ownership and maintenance of the UPRR bridge over Kato Road and the adjacent vehicle maintenance bridge if "for any reason VTA ceases to exist or loses capacity to meet its obligations". Although VTA would be willing to relieve the City of this responsibility through the cooperative agreement, in reality, if VTA no longer existed they would surely default on the agreement. Staff believes that the potential for VTA to dissolve or not have the capacity to meet its obligations is extremely remote. Further, should such a situation occur, assuming this maintenance would not place an overly difficult burden on the City.

In summary, staff is recommending that the Council authorize the City Manager or his designee to execute a Fourth Amendment to the Cooperative Agreement with VTA for the Kato Road Grade Separation Project to document VTA's commitment to assume all of the City's financial responsibilities associated with entering into a C&M Agreement with UPRR. Further, with such an Amendment in place, staff is recommending the Council authorize the City Manager or his designee to execute the C&M Agreement with UPRR and VTA covering the construction and maintenance of the Kato Road Grade Separation Project.

FISCAL IMPACT: As long as VTA exists as an agency and has the financial capacity to meet its contractual commitments to the City and UPRR, there is no fiscal impact on the City. However, should VTA cease to exist or loses capacity to meet its obligations contained in the C&M Agreement and its cooperative agreement with the City, the City would assume maintenance responsibilities for the two

new bridges to be constructed over Kato Road as part of this project. This additional maintenance, should it occur, could be absorbed within the existing City Maintenance budget.

ENVIRONMENTAL REVIEW: Railroad Grade Separations are Statutorily Exempt from CEQA review pursuant to Public Resources Code section 21080.13 . The City filed a Notice of Exemption for the Kato Road Grade Separation Project with the County Recorder on November 19, 2008.

ENCLOSURE: None

RECOMMENDATION:

1. Approve and Authorize the City Manager or his designee to execute a Fourth Amendment to the Cooperative Agreement with the Santa Clara Valley Transportation Authority regarding the implementation of the Kato Road Grade Separation Project to commit VTA to assume all cost responsibilities of the City called for in the Project Construction and Maintenance Agreement with the Union Pacific Railroad and VTA.
2. Approve and following execution of the Fourth Amendment to the Cooperative Agreement with VTA, further authorize the City Manager or his designee to execute a Construction and Maintenance Agreement with the Union Pacific Railroad and VTA to set forth the rights and responsibilities for construction of the Kato Road Grade Separation Project and maintenance of the completed facilities.

***2.4 OSGOOD ROAD REHABILITATION PROJECT**

Appropriate Federal American Recovery and Reinvestment Act of 2009 (ARRA) fund amount of \$252,422 to the Osgood Road Rehabilitation Project between Washington Boulevard and Auto Mall Parkway, City Project No. 8173 (PWC)

Contact Person:

Name:	Jeanne Suyeishi	Norm Hughes
Title:	Associate Civil Engineer	City Engineer
Dept.:	Public Works	Public Works
Phone:	510-494-4728	510-494-4748
E-Mail:	jsuyeishi@fremont.gov	nhughes@fremont.gov

Executive Summary: The purpose of this report is to ask Council to appropriate additional funding from the federal American Recovery and Reinvestment Act of 2009 (ARRA) in the amount of \$252,422 for the Osgood Road Rehabilitation Project, City Project No. 8173(PWC).

BACKGROUND: On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act of 2009, enacting the \$787 billion economic recovery package. At the April 7, 2009 City Council meeting, \$5,907,000 of Tier 1 ARRA funds were appropriated to the 2009 Citywide Asphalt Overlay Project, City Project No. 8234-H (PWC). Subsequent to the April 7, 2009 meeting, \$4,740,000 of Tier 2 ARRA funds became available for Alameda County. The City's share of that amount, \$770,000, was allocated to the overlay project. Due to favorable bids, these additional funds were not needed for the overlay project.

On December 1, 2009, City Council authorized staff to submit an application to the Metropolitan Transportation Commission (MTC) for the Tier 2 funds for the rehabilitation of the existing roadway on Osgood Road as part of the Osgood Road Improvement Project. On April 23, 2010, the Department of Transportation and FHWA obligated the additional funds to the Osgood Road project.

On June 15, 2010, City Council awarded the construction contract for the Osgood Road Improvement project to the lowest responsible bidder. Construction began in August 2010, but was put on hold while utility relocations were completed and weather conditions improved. The project was restarted last month and is expected to be completed by the end of 2011.

Subsequent to awarding the Osgood Road project, but before construction began, the Metropolitan Transportation Commission (MTC) informed the Alameda County Congestion Management Agency (ACCMA) that there was a remaining balance of regional ARRA funding that needed to be obligated as soon as possible. The Osgood Road Rehabilitation Project met all the criteria for receiving the funds and, partly because of the City's history of delivering its federal projects in a timely manner, MTC recommended that this project receive Alameda County's entire share of the remaining balance of \$252,422. On August 13, 2010, the Department of Transportation and FHWA obligated the additional ARRA funds to the Osgood Road project. In order to implement this additional grant, the City Council must formally appropriate these funds to the Osgood Road project.

DISCUSSION/ANALYSIS: Osgood Road has a Pavement Condition Index (PCI) of 26 between Washington Boulevard and Blacow Road, and 49 between Blacow Road and Auto Mall Parkway. Streets with a PCI between 26 and 49 are considered “poor” and the appropriate rehabilitation treatments are performing localized base repairs where the pavement base material has failed and grinding and overlaying the existing pavement surface. Staff recommends applying the additional allocation in the amount of \$252,422 to the Osgood Road Rehabilitation Project, Project No. PWC 8173 for base repairs, overlay work and construction staff costs. This funding would pay for some of the pavement rehabilitation work that local funds would otherwise have funded.

FISCAL IMPACT: Appropriating the additional federal funding to the project will result in an equal amount of savings to the City’s gas tax funding that had previously been committed to the project. These funds can now be utilized in future projects.

ENVIRONMENTAL REVIEW: On December 21, 2004, the Department of Transportation along with the Federal Highway Administration (FHWA) determined that the Osgood Road project will have no significant impact on the environment. The Finding of No Significance (FONSI) was based on the Environmental Assessment/Initial Study (EA/IS) and was determined to adequately and accurately address the environmental issues and impacts of the proposed project. The EA/IS and Draft Mitigated Negative Declaration (PLN 2004-00084) were prepared and circulated as a joint environmental project to respond to both State California Environmental Quality Act (CEQA) criteria and Federal National Environmental Protection Act (NEPA) environmental criteria. City Council adopted the draft mitigated negative declaration and approved the mitigation monitoring plan at the March 23, 2004 City Council meeting. On November 10, 2009, the Department of Transportation revalidated the original environmental document and determined that no further documentation needs to be prepared for this project. In addition, no changes to the project or its circumstances have occurred and no new information has become available since adoption of the project mitigated negative declaration that would require preparation of additional environmental documentation.

ENCLOSURE: None

RECOMMENDATION: Appropriate American Recovery and Reinvestment Act of 2009 funding obligated to Osgood Road by Caltrans on August 13, 2010, in the amount of \$252,422 to the Osgood Road Rehabilitation Project, City Project No. PWC 8173 fund 194.

***2.5 HOUSING ELEMENT ANNUAL REVIEW (PLN2011-00107)**

Public Hearing (Published Notice) to Consider an Annual Report on the Status of the General Plan and Housing Element Implementation

Contact Person:

Name:	Kelly Diekmann	Ed Chew
Title:	Senior Planner	Staff Planner
Dept.:	Community Development	Community Development
Phone:	510-494-4540	510-494-4462
E-Mail:	kdiekmann@fremont.gov	echew@fremont.gov

Executive Summary: State planning law requires cities to provide a status report on the General Plan to the Governor's Office of Planning and Research (OPR) and an update on the implementation of the Housing Element each year to the State Department of Housing and Community Development (HCD). The purpose of this report is to provide an annual review of the General Plan as well as progress in implementing the Housing Element in keeping with the requirements of Government Code Section 65400. In calendar year 2010, the City approved three General Plan Amendments allowing for residential development, and issued building permits for 307 new homes. Details are enumerated in *Exhibit "A" (Completed Tables for the Annual Element Progress Report)*. At the March 10, 2011 Planning Commission meeting, the Planning Commission found that the Annual Report accurately reported the current status of the City of Fremont's General Plan and Housing Element.

BACKGROUND: The City of Fremont received certification of the current Housing Element on October 15, 2009 from the State Department of Housing and Community Development (HCD). This is the second annual report since Housing Element certification.

DISCUSSION/ANALYSIS: This report is divided into the following sections:

- I. A description of progress in meeting regional housing needs for calendar year 2010;
- II. A description of the progress in implementing various programs in the Housing Element;
- III. A description of the status of General Plan activities during calendar year 2010.

I. Progress in Meeting Regional Housing Needs

The State of California provides population growth estimates to each regional council of governments, [in the Bay Area, the regional council is the Association of Bay Area Governments (ABAG)] and ABAG is then charged with determining the share of new housing units for which a community must plan in order to accommodate projected housing needs of the estimated growth. The Regional Housing Needs Allocation (RHNA) determination was established by ABAG in 2008 and considers housing production from January 1, 2007 to December 31, 2014.

Income Category	Housing Need
Extremely Low Income	700 households(16.0%)
Very Low Income	648 households(15.0%)
Low Income	887 households(20.0%)
Moderate Income	876 households(20.0%)
Above Moderate Income	1,269 households(29.0%)
TOTAL	4,380 households(100%)

Generally, Very Low Income households have incomes which do not exceed 50% of the area median income, Low Income households have incomes which do not exceed 80% of area median income, Moderate Income Households have incomes which do not exceed 120% of area median income, and Above Moderate Income households have incomes greater than 120% of area median income. The area median income for Alameda County was approximately \$90,300 in 2010.¹

Table 2
Regional Housing Needs Allocation Progress- Permitted Units issued by Affordability

II. Progress in Implementation of the Housing Element (Adopted July 2009, Certified October 2009)

Item 2.5 (Consent)
March 22, 2011

The Housing Element identified a Housing Policy Program with 7 goals, 16 policies and 57 programs. The enclosed *Exhibit “A” (Table C of attachment 1- Program Implementation Status)* lists in detail the various Goals, Policies and Programs, with their current status. Because the Housing Element was certified in October 2009, many of the programs are in the very beginning phases of implementation or ongoing throughout 2010.

The time period covered in this report is generally from January to December 2010. A summary of important achievements and highlights is provided below; however, for specific updates on each program, please refer to *Exhibit A: (Table C of attachment 1- Program Implementation Status)*.

The City has initiated the study and evaluation of four (4) new housing-related policy programs in CY2010 for design and sustainability.

Housing Policy 2.01 relates to the continual update and application of building codes and design standards that ensure a high-quality housing stock. The following four (4) programs focus on the City’s effort to find new ways to accommodate future housing growth while ensuring a high-quality and sustainable infill project. These four programs are:

- Program 2.01-A Multifamily Design Guidelines: In CY 2010, the City completed a second Administrative Draft of the new guidelines. With the decreasing amount of open land, developers and the City work closely to “fit” new multifamily housing project types into existing neighborhoods. This strategy prompted the need for detailed design guidance to developers of these projects. The guidelines should reduce delays and uncertainty for developers. Staff is currently working on the final draft document for City Council Review in CY2011.
- Program 2.01-C Green Buildings: As part of adoption of the new 2010 California Green Building Code, the City adopted additional requirements for residential construction. Future residential construction in Fremont (with some exceptions as provided for in the Green Building Code) must comply either with “CalGreen Tier 1” requirements established by the State or achieve 50 points on the Build-It-Green Green Point Rated checklist.
- Program 2.02-D Evaluate Universal Design: Study was initiated by City staff in 2009 and was completed in 2010. Staff met twice with external stakeholders before developing a local ordinance which is substantially the same as the State’s “Model Universal Design Local Ordinance.” The proposed Universal Design Ordinance will be introduced by the City Council on March 22, 2011.
- Program 2.01-G Solar Panel Incentive Program: After evaluating development of a solar panel incentive program, the City and RDA instead developed broader programs to address energy efficiency in affordable projects. The City issued an RFP offering funding for energy efficiency projects by community agencies. (Awards were made in January, 2011, with Eden Housing receiving about \$80,000 for efficiency upgrades at the Redwood Lodge affordable development). The City used Federal energy stimulus funds to provide funding to the Alameda County Waste Management Authority for the Energy Upgrade Alameda County program. The program includes a multifamily housing component that provides technical and financial assistance to multifamily property owners pursuing energy efficiency retrofits. The City also presented a Resolution to Eden Housing at a Council meeting to recognize Eden’s success in securing \$2.2 million in HUD funding for energy efficiency upgrades and installation of solar panels at the Sequoia Manor and Pacific Grove affordable developments.

The City has initiated five (5) programs to remove various governmental constraints to improve the process of both market and below market rate housing projects.

Housing Policy 3.04 relates to the removal of governmental constraints that hinder the development of housing within Fremont.

The following two (2) programs both deal with parking requirements and how they affect the development of housing, especially in two areas – Transit Oriented Developments and Affordable Housing Developments. These two programs are:

- Program 3.04-A Consider Modification to Parking: The City began work on the update of its parking requirements for all housing types. As indicated by developers and other housing stakeholders, parking is a major barrier to development because of its cost and space requirements. City staff began research on the possible modification of these parking requirements and will look at the use of tandem parking and other possible reductions for affordable housing projects, where residents are less likely to need as many parking spaces based on their income level or proximity to mass transit.
- Program 3.04-B Evaluate Unbundling of Parking near TOD Areas: In CY 2009, the City also began research on the unbundling of parking for new Transit Oriented Developments near the city's major transit stations. The City's report on the feasibility of unbundling parking in TOD areas is scheduled to be completed in winter 2011. The concept of reduced parking and non-exclusive parking rates are part of the City's draft Midtown Community plan for high intensity residential and commercial TOD development.

The following three (3) programs deal with improving the existing housing entitlement process to create a more inclusive preliminary project review and a more cohesive reviewing staff. These programs are being integrated into what the City calls the "Team Based Approach" for land use development. These three programs are:

- Program 3.04-C Early Identification of Possible Project Issues: With the new Team Based Approach, City staff has restructured its review process, giving development applicants a more complete understanding of possible site/project issues early in the review process.
- Program 3.04-D Continue to Coordinate with Outside Agencies: The new Team Based strategy aims to involve all possibly interested governmental agencies and parties from the beginning of the development project review.
- Program 3.04-F Complete Implementation of Process and Procedure Improvements: City staff has implemented many of the 130 recommendations made by an outside consultant to improve the development review process. As a result, the updated and re-vamped Team Based Approach to development review debuted in May 2009 and fully integrated during CY2010. The City has received comments from various developers expressing that the new process is working in reducing review cycles and time needed to receive entitlements.

The City and its Redevelopment Agency have assisted two (2) major affordable housing projects for Very Low and Extremely Low Income Fremont residents in CY 2010.

In October 2010, Eden Housing started construction on a \$37 million, 98-unit senior rental mixed use development that will serve very low and extremely low income seniors. The Agency and City provided a \$12.7 million development loan, which includes \$10.8 million of Agency housing funds, \$1.4 million of HOME Program and \$488,000 of CDBG funds. The HUD 202-funded project is scheduled to be completed in winter 2011.

In June 2010, construction started on Allied Housing's Main Street Village, a 64-unit supportive housing development. The City and Agency provided \$6.6 million in financing, which included \$2.4 million of Agency funds, \$3 million of HELP funds, \$1 million of HOME funds and \$200,000 of CDBG funds. The \$26 million rental development received \$20 million of federal American Recovery and Reinvestment Act Funds administered by the CA Tax Credit Allocation Committee.

The City continues to utilize all available funding resources in order to provide the maximum amount of affordable housing feasible.

The following programs encourage the development of affordable and market-rate housing:

- Program 3.01B: Affordable Housing Ordinance: The City's newly amended Affordable Housing Ordinance (formerly referred to as the Inclusionary Housing Ordinance) provides flexibility to developers by allowing them the option of building units on site or fulfilling their obligation by paying the City an in-lieu fee, and expands the uses for the Fund to include supportive services for extremely-low, very-low, and low-income populations.
 - The in-lieu fee was reduced to in order to stimulate development during this economic downturn, with automatic annual increases built in over the next 3 years to bring the rate up to "market".
- Program 3.01-C: Develop a Target Percentage of Affordable Housing Funds to Support Extremely-Low Income Households (ELI): The Agency Board held two work sessions, one in July 2010 and one in November 2010, where this question was considered. The Board directed staff to strive to build 23% of new units to be affordable to ELI households to match the proportional ELI assessment of RHNA.
 - In accordance with Program 3.01-A, following the update of target percentage funds for ELI, the Redevelopment Agency's Implementation Plan will also be revisited as part of its mid-term review in Spring 2011.
- Program 3.01-E: Impact Fee Deferrals: As part of the Fremont Economic Stimulus Package to encourage development during the economic downturn, the City instituted an across-the board impact fee reduction of 25% for projects in the CBD, 50% in the Midtown District, and 10% for projects located elsewhere in the City. Applicants can defer all City impact fees for 18 months or until final inspection, whichever comes first.
 - In December 2010, the City added the ability to defer affordable housing in-lieu and impact fees as well. By offering this option more widely, the City continues to assist affordable projects while also helping to increase market rate housing supply. No affordable housing developments requested impact fee deferrals during the calendar year.

- Program 3.03-B: Continue to Encourage Development of Affordable Family and Larger Sized Units: The Redevelopment Agency has adopted as a criterion for awarding funds to projects, the targeting of a range of unit sizes, including units suitable for larger families. The City and Redevelopment Agency will continue to encourage the development of affordable units that have a sufficient number of bedrooms to accommodate larger-sized family households. Units may be either for rental or purchase.
 - Existing Below Market Rate Housing (Rental):
 - Pickering Place (4 and 3 bedroom units)
 - Baywood (3 bedroom units)
 - Archstone (3 bedroom units)
 - Glen Haven (3 bedroom units)
 - Glen View (3 bedroom units)
 - Irvington Terrace (3 bedroom units)
 - Maple Square (3 bedroom units)
 - Oroyosom Village (3 bedroom units)
 - Park Vista (3 bedroom units)
 - Sundale Farms (3 bedroom units)
 - New in 2010 Below Market Rate Housing (Ownership):
 - Hummingbird (4 and 3 bedroom homes)
 - Castilleja (4 bedroom homes)
 - Cedarbrook (4 bedroom homes)
 - Villa d'Este (3 bedroom homes)
 - Cascade (3 bedroom homes)
 - Loreda (3 bedroom homes)
 - Sonora (3 bedroom homes)
 - ParkLane West (4 and 3 bedroom homes)

III. Status of General Plan Activities

This section of the report focuses on General Plan Amendments (GPAs) approved from January 1, 2010 to December 31, 2010 and summarizes activity related to the General Plan 2030 update.

Per Government Code Section 65358(b), the General Plan may not be amended more than four times per year. Each amendment may include more than one change. There were no commercial or industrial use related GPAs. There were a total of three GPAs related to residential development approved during this time period occurring on September 28, October 12, and October 26.

The projects were:

- Lam & Young GPA (PLN2010-00104) located at 43116 Mission Boulevard in the Mission San Jose Planning Area (approved on September 28, 2010). The land use designation was changed from low density residential (2.5-3.5 du/ac) to low density residential (3-5 du/ac) yielding a net increase of one dwelling unit for the project;
- St Joseph Surplus Land (PLN2010-00198) located on Mission Boulevard at Chantecler Drive in the Mission San Jose Planning Area (approved on October 12, 2010). The land use designation

was changed from Private Open Space to low density residential 3-5 du/ac on a portion of the project site, yielding 16 residential lots for the project;

- Patterson Ranch (PLN2005-00186) generally located on 101 acres northeast of the intersection of Paseo Padre Parkway and Ardenwood Boulevard in the Northern Plain Planning Area (approved on October 26, 2010). The land use designation was changed from Private Open Space and Study Area- Urban Reserve to low density residential (4-6 du/ac), yielding up to 500 residential units.

The City of Fremont is in the process of updating its General Plan for a planning horizon extending out 25 years. The Draft General Plan was published in November, 2010. It calls for Fremont to become “strategically urban” with the bulk of future growth directed to areas near transit. The plan establishes a new “Urban Residential” land use category near transit hubs, with densities ranging from 30-70+ units per acre. The plan also establishes “Transit Oriented Development (TOD) Overlays” within a half mile radius of transit stations that incorporate parking requirements, setbacks, and other development standards aimed at focusing growth near transit to meet the City’s housing needs while ensuring that transportation options are available.

Adoption of the General Plan is anticipated in 2011.

FISCAL IMPACT: The Annual Report on the General Plan and Housing Element is part of the Implementation program for the Housing Element.

ENVIRONMENTAL REVIEW: The proposed project is exempt from the California Environmental Quality Act (CEQA). An annual report is not subject to the California Environmental Quality Act (CEQA) per Guideline 15378 definition of a project.

ENCLOSURE: [Completed Tables for the Annual Element Progress Report](#)

RECOMMENDATION:

1. Hold public hearing.
2. Recommend the City Council find the Annual Report is exempt from the California Environmental Quality Act (CEQA) under Guideline 15378(b)(5) definition of a "project".
3. Recommend the City Council find that the Annual Report of the General Plan and Housing Element accurately depict the current status of the City of Fremont with respect to the General Plan and Housing Element and direct staff to submit required materials to the appropriate agencies.

***2.6 REPLACEMENT OF LETTER OF CREDIT ON 1998 VARIABLE RATE COPS**
Replacement of Letter of Credit on the City of Fremont 1998 Variable Rate Demand
Certificates of Participation (1998 Family Resource Center Financing Project) (COPs)

Contact Person:

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Executive Summary: The City of Fremont, through the Fremont Public Financing Authority (PFA), executed and delivered its Variable Rate Demand Certificates of Participation (1998 Family Resource Center Financing Project) (the “Certificates” or “COPs”) on February 1, 1998, with a direct pay letter of credit from Kredietbank N.V., acting through its New York Branch (“KBC”), providing credit and liquidity support. KBC has notified the City that it will not renew the 1998 Letter of Credit. It is necessary for the City to replace this letter of credit with an irrevocable letter of credit from a financial institution equal in amount and substantially identical in substance to the 1998 Letter of Credit in order to be able to continue to market these COPs on a variable rate demand basis. Staff recommends substituting the letter of credit with KBC with one from U. S. Bank, a bank with a strong rating that will allow the COPs to continue to be attractive investments for money market fund investors.

BACKGROUND: The City of Fremont, through the Fremont Public Financing Authority (PFA), executed and delivered its Variable Rate Demand Certificates of Participation (1998 Family Resource Center Financing Project) (the “Certificates” or “COPs”) on February 1, 1998, with a direct pay letter of credit from Kredietbank N.V., acting through its New York Branch (“KBC”), providing credit and liquidity support. Following the initial term of the KBC letter of credit, three amendments were executed extending the original term of the letter of credit.

The most recent amendment expires on April 12, 2011, and KBC has indicated its unwillingness to extend this letter of credit and, indeed, has a new-found reluctance to provide letters of credit in general, and to California municipal issuers in particular. Accordingly, City staff and KNN Public Finance, the City’s financial advisor, moved to obtain a replacement letter of credit from a strongly rated bank that will allow these COPs to continue to trade at the same level as similar issues with a strongly rated bank letter of credit.

DISCUSSION/ANALYSIS: Obtaining a substitute letter of credit for this issue has been challenging because of its relatively small size (approximately \$10 million remains outstanding). U. S. Bank, National Association (“U. S. Bank”), however, has expressed a willingness to provide a letter of credit for this debt issue, primarily because of its other letter of credit arrangements with the City. (U. S. Bank replaced Allied Irish Bank on the City’s 2008 COPs, and is the letter of credit provider on the City’s most recently issued 2010 COPs). U. S. Bank is rated AA- long-term and A-1+ short-term by Standard & Poor’s and, in combination with the City’s current AA COP rating, will give the COPs a AAA long-term rating and a A-1+ short-term rating from Standard & Poor’s. (Other U. S. Bank ratings are Aa1/P-1 from Moody’s and AA-/F1+ from Fitch.)

The new reimbursement agreement between the City and U. S. Bank, which governs the letter of credit, and the new letter of credit, both substantially in the form that will be executed, will be submitted to Standard & Poor's for rating the COPs with the new letter of credit. Rating is estimated to take about three weeks, but could be completed sooner. The City's trustee for the COPs will execute a mandatory tender (call) of the COPs and the City's remarketing agent will remarket the COPs to investors with the U. S. Bank letter of credit. At that point, on a Wednesday, the U. S. Bank letter of credit will become effective. At that time, as a condition of issuance, U. S. Bank will also assume the duties of remarketing agent, a role previously filled by Barclay's Capital, Inc. There are no changes to the basic documents or terms of the COPs; the letter of credit replacement is entirely within the terms of these documents.

The resolution before the City Council for adoption authorizes City staff to take actions to effect the replacement of the letter of credit from KBC with a new letter of credit from U. S. Bank, approves the form of the new letter of credit reimbursement agreement between the City and U. S. Bank, approves the substitution of U. S. Bank for Barclay's Capital as remarketing agent, and approves the form and use of the Remarketing Supplement (essentially a variety of official statement describing the City, the letter of credit replacement process, and the new letter of credit and letter of credit reimbursement agreement) to remarket the COPs.

FISCAL IMPACT: The estimated costs with respect to the letter of credit replacement are as follows:

U. S. Bank, for Letter of Credit	Estimated 115 basis points (1.15%) annually on the outstanding amount of the letter of credit; no up-front fee.
Hawkins Delefield & Wood LLP, Bank Counsel	\$40,000 to \$50,000
KNN Public Finance, City's Financial Advisor	\$17,500
Quint & Thimmig, Special Counsel for the Certificates	\$17,500
Standard & Poor's, Letter of Credit Substitution Fee	\$5,000
Estimated total out-of-pocket costs to the City at letter of credit substitution	\$80,000 to \$90,000

The positive fiscal impact of replacing the KBC letter of credit with the U. S. Bank letter of credit is the ability to continue to market these COPs as variable rate demand obligations. The other alternative, had a substitute letter of credit bank not been found, would have been to convert these COPs to a fixed rate debt at a higher annual interest rate, or to structure it as a hybrid of a fixed and variable rate debt instrument. Having the ability to maintain the variable rate demand structure is both cheaper and easier to administer. This will result in continued savings to the General Fund, rather than adding additional ongoing debt service costs.

ENVIRONMENTAL REVIEW: Not applicable.

ENCLOSURE: [Draft Resolution](#)

RECOMMENDATION:

1. Approve substitution of the Kredietbank N.V., acting through its New York Branch (“KBC”), letter of credit with the U. S. Bank letter of credit for the 1998 Variable Rate Demand Certificates of Participation.
2. Adopt a resolution authorizing the preparation and execution by the City officers and staff identified in the resolution of all agreements, documents, and certificates required to remarket the 1998 Variable Rate Demand Certificates of Participation, including the following documents (which are on file with the Office of the City Clerk), in addition to the enclosures, in connection with the 1998 Variable Rate Demand Certificates of Participation:
 - a. Reimbursement Agreement with U. S. Bank, National Association
 - b. Mandatory Tender Notice
 - c. Remarketing Supplement to the Official Statement for the 2008 Variable Rate Demand Certificates of Participation

6.1 Report Out from Closed Session of Any Final Action

7.1 UNIVERSAL DESIGN ORDINANCE

Introduce an Ordinance Adding Chapter 14 to Title VII of the Fremont Municipal Code Regarding Universal Design Features in New Housing

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Executive Summary: The updated Housing Element of the General Plan that was adopted in July 2009 includes an implementation measure directing staff to evaluate the feasibility of a Universal Design ordinance that provides for greater adaptability and accessibility of housing. The State of California Health and Safety Code Section 17959 (a) refers to “Universal design” as “. . . new construction and home modifications . . . that enhance the full life cycle use of housing without regard to the physical abilities or disabilities of a home's occupants or guests in order to accommodate a wide range of individual preferences and functional abilities”. Staff has completed the evaluation and is proposing the adoption of a Universal Design ordinance, applicable to certain types of residential development projects, (specifically, single family, duplex and triplex residential dwellings except for custom-built homes) as a new chapter of the City's Municipal Code.

As required by State law, the proposed ordinance is substantially the same as the State's “Model Universal Design Local Ordinance”, which was certified by the State Department of Housing and Community Development (HCD) on October 31, 2005. The Model Ordinance was developed by HCD with stakeholder involvement across the state, and is intended to accomplish two key goals: to ensure that universal design standards are consistent throughout the State, and that the cost to builders and developers for including universal design features in housing is not excessive. The Model Ordinance includes a list of “mandatory to offer” universal design features which a developer is required to offer to a prospective buyer who is required to pay any additional costs for the requested features.

BACKGROUND: On July 14, 2009, the Fremont City Council adopted the Housing Element (2007-2014) of the General Plan. Fremont's Housing Element received certification by the State Department of Housing and Community Development (HCD) on October 15, 2009.

During the preparation of the Housing Element, the City was approached by advocates for “universal design” who requested amendments to local codes requiring the incorporation of universal design features in new residential construction. As a result, the City Council included an implementation measure (Action 2.01-D) in the Housing Element, directing staff to evaluate the feasibility of a Universal Design ordinance that provides for greater adaptability and accessibility of housing. Staff has completed this evaluation and is proposing the adoption of a Universal Design ordinance as a new chapter of the City's Municipal Code.

DISCUSSION/ANALYSIS:

Model Universal Design Local Ordinance: California Health and Safety Code Section 17959(b)(1), grants authority to cities to adopt ordinances addressing Universal Design strategies which are in addition to or in excess of the requirements contained in the California Building Standards Code as long as the city “ . . . Makes a finding that the changes and modifications are reasonably necessary and are substantially the same as the guidelines or model ordinances adopted pursuant to subdivision (a)”. The State’s “Model Universal Design Local Ordinance”, certified by the State of California’s Department of Housing and Community Development (HCD) on October 31, 2005, provides the basis for Fremont’s proposed ordinance.

The proposed Universal Design Ordinance is intended to enhance the full life cycle use of housing by accommodating a wide range of functional abilities and individual preferences. The ordinance lists specific features, such as accessible entries, clear spaces of certain dimensions in front of sinks and stoves, and the design and placement of faucet handles, light switches and electrical outlets, which the developer would be required to install only if requested and paid for by the home’s buyer and if the installation would not cause unreasonable delays or significant un-reimbursable costs to the developer. Developers would be required to provide a list of the available universal design features to the buyer at the earliest feasible time in the process, so that any requested features could be successfully incorporated into the final house design. The application of the ordinance is more likely to arise where a developer has identified a purchaser prior to construction, although depending on the expense and whether any delays might occur, a particular feature may be able to be installed later in the construction process or afterwards.

Key elements of the proposed ordinance: The following section describes the key elements of staff’s recommendations for language specific to the City of Fremont, as allowed by the State’s Model Ordinance.

The State’s Model Ordinance provides that jurisdictions can choose whether to apply a local ordinance to:

- All, **or** some percentage, of residential units in a development,
- Owner-occupied, **or** rental units, **or** owner-occupied and rental units
- New construction and/or ‘substantial rehabilitation’ projects. “Substantial rehabilitation” is defined in the Model Ordinance as “the reconstruction of a primary entry, hallway, or one bathroom or powder room on the route from the primary entry, when that reconstruction is required to be consistent with the most current version of the California Building Standards Code”.

The Model Ordinance also provides the following two options for the types of residential units subject to a local ordinance; the City must choose either Option 1 or Option 2, or an option which is substantially the same:

- **Option 1:** All single-family, duplex, and triplex residential dwellings except for custom-built homes.
- **Option 2:** All single-family, duplex, or triplex residential dwellings only in developments in which at least five single-family, duplex and triplex residential dwellings, or any combination thereof, are being constructed within a one-year period, except for custom-built homes.

Staff recommends that the City Council base Fremont's ordinance on **Option 1**, and apply the ordinance to all owner-occupied and rental units which are single-family, duplex, or triplex, except custom homes. This approach will maximize the opportunities for buyers to garner the benefits of universal design features in their new dwelling units while increasing the supply of housing in the City with these features. Staff does not recommend that the ordinance include 'substantial rehabilitation' projects.

Examples of design features: The ordinance addresses universal design features on the primary entry level for the following: the primary building entry; interior routes; bathroom or powder room; kitchen; "common use" room (such as a living room); bedroom; rooms such as a laundry or storage room, and outdoor areas such as a patio or yard. For each of these spaces, the ordinance includes specific features, such as dimensional requirements and hardware, which maximize accessibility, flexibility, and ease of use by residents and visitors.

Exemptions: The ordinance provides that an applicant can request exemptions to applicability of the ordinance based on undue hardship due to issues such as the topographical conditions of the property or legal constraints. The Chief Building Official is responsible for determining whether a requested exemption would be granted.

Appeals: The ordinance provides that appeals of decisions by the Chief Building Official concerning requests for exemptions to the ordinance can be made to the City Manager or his designee. The decision of the City Manager or his designee would be final.

Enforcement: Enforcement would be consistent with the City's existing processes for other municipal code violations.

Proposed features not included in State's Model Ordinance: In addition to the list of features in the State's Model Ordinance, all of which are proposed for inclusion in Fremont's ordinance, staff is proposing the inclusion of two features not included in the Model Ordinance. The City of Sacramento included these two features in their adopted ordinance.

1, Conduit for the future wiring of assistive technologies in all exterior walls consistent with the National Electric Code.

It is less costly to have conduit placed in the wall during construction than post-construction. The assistive technologies could be valuable for people with movement disabilities as well as hearing or visual impairments. Examples of these technologies include automatic timers, environmental controls, and emergency assistance programs.

2. Outlets at the bottom and top of any stairs to facilitate the use of a chair lift.

The inclusion of the outlets would support the future addition of a chair lift to a home.

Other related laws: Other laws also regulate the accessibility of housing. Those include the Federal Fair Housing Act Amendments of 1988, the California Building Code, Chapter 11A, and Civil Code sections 51.2-51.4 regarding accessibility of senior housing.

Stakeholder involvement: Staff held two meetings with stakeholders. The first, held on February 25, 2010, was attended by 14 stakeholders from the private and not-for-profit housing development sectors; organizations providing services to, and advocating for, persons with disabilities; and the real estate

community. City staff from the Planning Division and the Office of Housing and Redevelopment was also present. The purpose of the meeting was to provide an overview to stakeholders about the feasibility study, and for participants to discuss their interests, ask questions, and provide input to staff. Several attendees emphasized the need for education about universal design so that all interested parties have a clear and common understanding of the issue.

The second meeting of September 25, 2010 was attended by nine stakeholders. City staff from the Planning Division, City Attorney's Office, Building Department, and Housing and Redevelopment Department was also present. The City Attorney described how the State's Model Universal Design Local Ordinance limits the discretion which the City can apply in developing its own ordinance. Although some stakeholders believe that the City was not limited by the State's Model Ordinance and that the City should institute mandatory requirements for at least a percentage of new units, staff spoke with the former legal counsel at HCD, who confirmed that the Model Ordinance intentionally limits local discretion through the requirement that a locally-adopted ordinance be 'substantially the same' as the Model Ordinance.

Finally, staff prepared a staff report for the March 19, 2010 Senior Citizens Commission meeting and received comment from commissioners and members of the public.

All stakeholders were notified of this City Council meeting through email notification.

FISCAL IMPACT: The costs associated with the installation of any features described in the ordinance will be borne by the purchaser of the housing unit making the request.

Effective date of ordinance: The ordinance will take effect 30 days after adoption by the Council, provided that a copy is first filed with the State of California Department of Housing and Community Development, in accordance with Health and Safety Code section 17959(b)(2).

ENVIRONMENTAL REVIEW: The proposed action does not meet the definition of a "project" as defined by the California Environmental Quality Act (CEQA) because the architectural features described in the ordinance, which could ultimately be included in residential buildings do not, on their own, constitute an activity that could cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. A Notice of Exemption will be filed with the Alameda County Clerk. No further environmental review is necessary.

ENCLOSURE: [Draft Universal Design ordinance](#)

RECOMMENDATION:

1. Hold public hearing.
2. Waive full reading and introduce an ordinance adding Chapter 14 (Universal Design) to Title VII (Building Regulations) regarding Universal Design standards.
3. Direct staff to prepare and the City Clerk to publish a summary of the proposed ordinance.
4. Direct the City Clerk to file a copy of the ordinance with the California Department of Housing and Community Development after its adoption.

8.1 Council Referrals – None.

8.2 Oral Reports on Meetings and Events

ACRONYMS

ABAG.....	Association of Bay Area Governments	FUSD	Fremont Unified School District
ACCMA.....	Alameda County Congestion Management Agency	GIS	Geographic Information System
ACE	Altamont Commuter Express	GPA.....	General Plan Amendment
ACFCD	Alameda County Flood Control District	HARB	Historical Architectural Review Board
ACTA	Alameda County Transportation Authority	HBA	Home Builders Association
ACTIA	Alameda County Transportation Improvement Authority	HRC	Human Relations Commission
ACWD	Alameda County Water District	ICMA	International City/County Management Association
BAAQMD	Bay Area Air Quality Management District	JPA	Joint Powers Authority
BART	Bay Area Rapid Transit District	LLMD	Lighting and Landscaping Maintenance District
BCDC	Bay Conservation & Development Commission	LOCC.....	League of California Cities
BMPs	Best Management Practices	LOS	Level of Service
BMR	Below Market Rate	MOU	Memorandum of Understanding
CALPERS.....	California Public Employees' Retirement System	MTC.....	Metropolitan Transportation Commission
CBD	Central Business District	NEPA	National Environmental Policy Act
CDD.....	Community Development Department	NLC.....	National League of Cities
CC & R's	Covenants, Conditions & Restrictions	NPDES.....	National Pollutant Discharge Elimination System
CDBG	Community Development Block Grant	NPO.....	Neighborhood Preservation Ordinance
CEQA	California Environmental Quality Act	PC.....	Planning Commission
CERT	Community Emergency Response Team	PD	Planned District
CIP	Capital Improvement Program	PUC.....	Public Utilities Commission
CMA	Congestion Management Agency	PVAW	Private Vehicle Accessway
CNG.....	Compressed Natural Gas	PWC.....	Public Works Contract
COF	City of Fremont	RDA	Redevelopment Agency
COPPS	Community Oriented Policing and Public Safety	RFP	Request for Proposals
CSAC.....	California State Association of Counties	RFQ.....	Request for Qualifications
CTC	California Transportation Commission	RHNA	Regional Housing Needs Allocation
dB	Decibel	ROP.....	Regional Occupational Program
DEIR.....	Draft Environmental Impact Report	RRIDRO.....	Residential Rent Increase Dispute Resolution Ordinance
DO	Development Organization	RWQCB	Regional Water Quality Control Board
DU/AC.....	Dwelling Units per Acre	SACNET	Southern Alameda County Narcotics Enforcement Task Force
EBRPD	East Bay Regional Park District	SPAA	Site Plan and Architectural Approval
EDAC	Economic Development Advisory Commission (City)	STIP	State Transportation Improvement Program
EIR.....	Environmental Impact Report (CEQA)	TCRDF.....	Tri-Cities Recycling and Disposal Facility
EIS	Environmental Impact Statement (NEPA)	T&O	Transportation and Operations Department
ERAF	Education Revenue Augmentation Fund	TOD	Transit Oriented Development
EVAW	Emergency Vehicle Accessway	TS/MRF	Transfer Station/Materials Recovery Facility
FAR	Floor Area Ratio	UBC	Uniform Building Code
FEMA.....	Federal Emergency Management Agency	USD.....	Union Sanitary District
FFD.....	Fremont Fire Department	VTa	Santa Clara Valley Transportation Authority
FMC.....	Fremont Municipal Code	WMA	Waste Management Authority
FPD.....	Fremont Police Department	ZTA.....	Zoning Text Amendment
FRC.....	Family Resource Center		

**UPCOMING MEETING AND CHANNEL 27
BROADCAST SCHEDULE**

<i>Date</i>	<i>Time</i>	<i>Meeting Type</i>	<i>Location</i>	<i>Cable Channel 27</i>
March 29, 2011 (5 th Tuesday)		No Council Meeting		
April 5, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
April 12, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
April 19, 2011	TBD	Work Session	Council Chambers	Live
April 26, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
May 2, 2011	4-6 p.m.	Joint Council/FUSD Meeting	Council Chambers	Live
May 3, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
May 10, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
May 17, 2011	TBD	Work Session	Council Chambers	Live
May 24, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
May 31, 2011 (5 th Tuesday)		No Council Meeting		
June 7, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
June 14, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
June 21, 2011	TBD	Work Session	Council Chambers	Live
June 28, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
July 5, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
July 12, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
July 19, 2011	TBD	Work Session	Council Chambers	Live
July 26, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live